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**Federal Communications Commission**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Rochester City School District	)	File No. EB-FIELDNER-13-00007354
Antenna Structure Registrant	)	
ASR # 1233216	)	NOV No. V201332400022
Rochester, New York	)	

**NOTICE OF VIOLATION**

**Released: March 28, 2013**

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to Rochester City School District (Rochester), registrant of antenna structure number 1233216 in Rochester, New York. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.<sup>2</sup>

2. On March 7, 2013, agents of the Enforcement Bureau's Philadelphia Office inspected antenna structure number 1233216 located in Rochester, New York and observed the following violations:

- a. 47 C.F.R. § 17.4(g): "...the Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure." At the time of inspection, the Antenna Structure Registration Number was not posted.
- b. 47 C.F.R. § 17.23: "Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the FAA's painting and lighting recommendations set forth on the structure's FAA determination of 'no hazard' ...." The FCC's Antenna Structure Registration (ASR) database currently indicates that

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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antenna structure # 1233216 requires marking and red obstruction lighting during the nighttime in accordance with FAA circular number 70/7460-1K, FAA Chapters 3, 4, 5, 12. At the time of inspection, the antenna structure's top level red obstruction light was not flashing but instead was steady burning.

- c. 47 C.F.R. § 17.51(a): "All red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified." At the time of the inspection, one of the two steady-burning red side markers at the 2/3 level and both steady-burning red side markers at the 1/3 level were extinguished.
- d. 47 C.F.R. § 17.47(a): "The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part: (a)(1) Shall make an observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or alternatively, (2) Shall provide and properly maintain an automatic alarm system designed to detect any failure of such lights and to provide indication of such failure to the owner." At the time of the inspection, Rochester's representative told the agents that the lights on antenna structure number 1233216 were not visually monitored and that there was no automatic alarm system.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Rochester must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Rochester to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer for Rochester with personal knowledge of the representations provided in Rochester's response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information

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<sup>3</sup> 47 U.S.C. § 403.

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Commission's rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I

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requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Philadelphia Office  
One Oxford Valley Building, Suite 404  
2300 East Lincoln Highway  
Langhorne, Pennsylvania 19047

6. This Notice shall be sent to Rochester, City School District at its address of record.

7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski  
District Director  
Philadelphia District Office  
Northeast Region  
Enforcement Bureau

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declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).